

Assembly Bill No. 738

CHAPTER 308

An act to amend Sections 5241, 17000, 17600, 17602, 17702, and 17704 of, and to add Section 17701 to, the Family Code, relating to child support.

[Approved by Governor September 4, 2003. Filed
with Secretary of State September 5, 2003.]

LEGISLATIVE COUNSEL'S DIGEST

AB 738, Jackson. Child support enforcement.

Existing law establishes the Department of Child Support Services to administer laws and regulations pertaining to the administration of child support enforcement obligations. Existing law requires each county to maintain a local child support agency.

Existing law requires the department to assess on at least an annual basis, each county's compliance with federal and state child support laws and regulations. Existing law authorizes each county that is determined to be out of compliance to develop and submit a corrective action plan to the department.

Existing law also establishes a state child support incentive funding program. Existing law permits a county that comes within specified standards of performance to receive state child support incentive funds only upon accepting technical assistance from the department.

This bill would create a child support enforcement quality assurance and performance improvement program under the direction and oversight of the Department of Child Support Services. The bill would require the department to assess at least once every 3 years, rather than annually, each county's compliance with federal and state child support laws and regulations, except as to counties found to be out of compliance. If a county is determined not to be in compliance, the county would be required, rather than authorized, to develop a corrective action plan. The bill would also require the department to conduct an annual assessment of the state's compliance in order to meet federal self-assessment requirements. The child support program would require each local child support agency to monitor and measure child support program performance and compliance, and ensure the implementation of actions necessary to meet state and federal requirements and to continuously improve the quality of child support program services, as specified. By imposing additional duties on local child support agencies, the bill would create a state-mandated local program. The bill would also

include a statement of legislative findings and declarations and make a technical change.

The bill would also revise existing provisions relating to the department's collection of information from counties participating in a state child support incentive program, and impose a state-mandated local program by increasing the duties of counties to provide information to the department. The bill would also delete the provision authorizing a county to receive state child support incentive funds only upon accepting technical assistance from the department. The bill would additionally revise the definition of "local child support agency" as that term is used in various provisions addressing child support.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) The Child Support Program plays a critical role in ensuring the self-sufficiency of families and the well-being of children.

(b) Prior to 1998, the Child Support Program was a compliance-based program, focusing on local agency compliance with case processing requirements as the measurement of program success, without regard to program performance or outcomes.

(c) The federal Child Support Performance and Incentive Act of 1998 changed the program by establishing a structure which emphasizes performance to achieve program goals. This structure includes the establishment of incentive payments and financial penalties for states, based on their performance in five performance measures.

(d) The enactment of the Child Support Performance and Incentive Act of 1998 establishes the importance of California improving the delivery of program services and increasing program performance. This ensures that the state will have maximum access to federal incentive funding and avoid federal program penalties.

(e) The delivery of effective child support services in California necessitates that the program be implemented in a uniform manner,



requiring the application of a focused, structured approach to performance improvement strategies.

SEC. 2. Section 5241 of the Family Code is amended to read:

5241. (a) An employer who willfully fails to withhold and forward support pursuant to a currently valid assignment order entered and served upon the employer pursuant to this chapter is liable to the obligee for the amount of support not withheld, forwarded, or otherwise paid to the obligee, including any interest thereon.

(b) If an employer withholds support as required by the assignment order, the obligor shall not be held in contempt or subject to criminal prosecution for nonpayment of the support that was withheld by the employer but not received by the obligee. In addition, the employer is liable to the obligee for any interest incurred as a result of the employer's failure to timely forward the withheld support pursuant to an assignment earnings order.

(c) In addition to any other penalty or liability provided by law, willful failure by an employer to comply with an assignment order is punishable as a contempt pursuant to Section 1218 of the Code of Civil Procedure.

(d) If an employer withholds support, as required by the assignment order, but fails to forward the support to the obligee, the local child support agency shall take appropriate action to collect the withheld sums from the employer. The child support obligee or the local child support agency upon application may obtain an order requiring payment of support by electronic transfer from the employer's bank account if the employer has willfully failed to comply with the assignment order or if the employer has failed to comply with the assignment order on three separate occasions within a 12-month period. Where a court finds that an employer has willfully failed to comply with the assignment order or has otherwise failed to comply with the assignment order on three separate occasions within a 12-month period, the court may impose a civil penalty, in addition to any other penalty required by law, of up to 50 percent of the support amount that has not been received by the obligee.

(e) To facilitate employer awareness, the local child support agency shall make reasonable efforts to notify any employer subject to an assignment order pursuant to this chapter of the electronic fund transfer provision and enhanced penalties provided by this act.

(f) Notwithstanding any other provision of law, any penalty payable pursuant to this subdivision shall be payable directly to the obligee. The local child support agency shall not be required to establish or collect this penalty on behalf of the obligee. The penalty shall not be included when determining the income of the obligee for the purpose of determining the



eligibility of the obligee for benefits payable pursuant to state supplemental income programs. A court may issue the order requiring payment of support by electronic transfer from the employer's bank account and impose the penalty described in this subdivision, after notice and hearing. This provision shall not be construed to expand or limit the duties and obligations of the Labor Commissioner, as set forth in Section 200 and following of the Labor Code.

SEC. 3. Section 17000 of the Family Code is amended to read:

17000. The definitions contained in this section, and definitions applicable to Division 9 (commencing with Section 3500), shall govern the construction of this division, unless the context requires otherwise.

(a) "Child support debt" means the amount of money owed as child support pursuant to a court order.

(b) "Child support order" means any court order for the payment of a set or determinable amount of support by a parent or a court order requiring a parent to provide for health insurance coverage. "Child support order" includes any court order for spousal support or for medical support to the extent these obligations are to be enforced by a single state agency for child support under Title IV-D.

(c) "Court" means any superior court of this state and any court or tribunal of another state that has jurisdiction to determine the liability of persons for the support of another person.

(d) "Court order" means any judgment, decree, or order of any court of this state that orders the payment of a set or determinable amount of support by a parent. It does not include any order or decree of any proceeding in which a court did not order support.

(e) "Department" means the Department of Child Support Services.

(f) "Dependent child" means any of the following:

(1) Any person under 18 years of age who is not emancipated, self-supporting, married, or a member of the armed forces of the United States.

(2) Any unmarried person who is at least 18 years of age but who has not reached his or her 19th birthday, is not emancipated, and is a student regularly attending high school or a program of vocational or technical training designed to train that person for gainful employment.

(g) "Director" means the Director of Child Support Services or his or her authorized representative.

(h) "Local child support agency" means the new county department of child support services created pursuant to this chapter and with which the department has entered into a cooperative agreement, to secure child and spousal support, medical support, and determine paternity. Local child support agency includes county programs in multiple counties that



have been consolidated into a single agency pursuant to subdivision (a) of Section 17304.

(i) “Parent” means the natural or adoptive father or mother of a dependent child, and includes any person who has an enforceable obligation to support a dependent child.

(j) “Public assistance” means any amount paid under the California Work Opportunity and Responsibility to Kids Act (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code), or any Medi-Cal benefit, for the benefit of any dependent child or the caretaker of a child.

(k) “Public assistance debt” means any amount paid under the California Work Opportunity and Responsibility to Kids Act, contained in Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code, for the benefit of any dependent child or the caretaker of a child for whom the department is authorized to seek recoupment under this division, subject to applicable federal law.

(l) “Title IV-D” or “IV-D” means Part D of Title IV of the federal Social Security Act (42 U.S.C. Sec. 651 et seq.).

SEC. 4. Section 17600 of the Family Code is amended to read:

17600. (a) The Legislature finds and declares all of the following:

(1) The Legislative Analyst has found that county child support enforcement programs provide a net increase in revenues to the state.

(2) The state has a fiscal interest in ensuring that county child support enforcement programs perform efficiently.

(3) The state does not provide information to counties on child support enforcement programs, based on common denominators that would facilitate comparison of program performance.

(4) Providing this information would allow county officials to monitor program performance and to make appropriate modifications to improve program efficiency.

(5) This information is required for effective management of the child support program.

(b) Except as provided in this subdivision commencing with the 1998–99 fiscal year, and for each fiscal year thereafter, each county that is participating in the state incentive program described in Section 17704 shall provide to the department, and the department shall compile from this county child support information, monthly and annually, all of the following performance-based data, as established by the federal incentive funding system, provided that the department may revise the data required by this paragraph in order to conform to the final federal incentive system data definitions:



(1) One of the following data relating to paternity establishment, as required by the department, provided that the department shall require all counties to report on the same measurement:

(A) The total number of children in the caseload governed by Part D (commencing with Section 451) of Title IV of the federal Social Security Act (42 U.S.C. Sec. 651 et seq.), as of the end of the federal fiscal year, who were born to unmarried parents for whom paternity was established or acknowledged, and the total number of children in that caseload, as of the end of the preceding federal fiscal year, who were born to unmarried parents.

(B) The total number of minor children who were born in the state to unmarried parents for whom paternity was established or acknowledged during a federal fiscal year, and the total number of children in the state born to unmarried parents during the preceding calendar year.

(2) The number of cases governed by Part D (commencing with Section 451) of Title IV of the federal Social Security Act (42 U.S.C. Sec. 651 et seq.) during the federal fiscal year and the total number of those cases with support orders.

(3) The total dollars collected during the federal fiscal year for current support in cases governed by Part D (commencing with Section 451) of Title IV of the federal Social Security Act (42 U.S.C. Sec. 651 et seq.) and the total number of dollars owing for current support during that federal fiscal year in cases governed by those provisions.

(4) The total number of cases for the federal fiscal year governed by Part D (commencing with Section 451) of Title IV of the federal Social Security Act (42 U.S.C. Sec. 651 et seq.) in which payment was being made toward child support arrearages and the total number of cases for that fiscal year governed by these federal provisions that had child support arrearages.

(5) The total number of dollars collected and expended during a federal fiscal year in cases governed by Part D (commencing with Section 451) of Title IV of the federal Social Security Act (42 U.S.C. Sec. 651 et seq.).

(6) The total amount of child support dollars collected during a federal fiscal year, and, if and when required by federal law, the amount of these collections broken down by collections distributed on behalf of current recipients of federal Temporary Assistance for Needy Families block grant funds or federal foster care funds, on behalf of former recipients of federal Temporary Assistance for Needy Families block grant funds or federal foster care funds, or on behalf of persons who have never been recipients of these federal funds.

(c) In addition to the information required by subdivision (b), the department shall collect, on a monthly basis, from each county that is



participating in the state incentive program described in Section 17704, information on the local child support agency for each federal fiscal year, and shall report semiannually on all of the following performance measurements:

(1) The percentage of cases with collections of current support. This percentage shall be calculated by dividing the number of cases with an order for current support by the number of those cases with collections of current support. The number of cases with support collected shall include only the number of cases actually receiving a collection, not the number of payments received. Cases with a medical support order that do not have an order for current support may not be counted.

(2) The average amount collected per case for all cases with collections.

(3) The percentage of cases that had a support order established during the period. A support order shall be counted as established only when the appropriate court has issued an order for child support, including an order for temporary child support, or an order for medical support.

(4) The total cost of administering the local child support agency, including the federal, state, and county share of the costs, and the federal and state incentives received by each county. The total cost of administering the program shall be broken down by the following:

(A) The direct costs of the program, broken down further by total employee salaries and benefits, a list of the number of employees broken down into at least the following categories: attorneys, administrators, caseworkers, investigators, and clerical support; contractor costs; space charges; and payments to other county agencies. Employee salaries and numbers need only be reported in the annual report.

(B) The indirect costs, showing all overhead charges.

(5) In addition, the local child support agency shall report monthly on measurements developed by the department that provide data on the following:

(A) Locating obligors.

(B) Obtaining and enforcing medical support.

(C) Providing customer service.

(D) Any other measurements that the director determines to be an appropriate determination of a local child support agency's performance.

(6) A county may apply for an exemption from any or all of the reporting requirements of this subdivision for a fiscal year by submitting an application for the exemption to the department at least three months prior to the commencement of the fiscal year or quarter for which the exemption is sought. A county shall provide a separate justification for each data element under this subdivision for which the county is seeking



an exemption and the cost to the county of providing the data. The department may not grant an exemption for more than one year. The department may grant a single exemption only if both of the following conditions are met:

(A) The county cannot compile the data being sought through its existing automated system or systems.

(B) The county cannot compile the data being sought through manual means or through an enhanced automated system or systems without significantly harming the child support collection efforts of the county.

(d) After implementation of the statewide automated system, in addition to the information required by subdivision (b), the Department of Child Support Services shall collect, on a monthly basis, from each county that is participating in the state incentive program described in Section 17704, information on the county child support enforcement program beginning with the 1998–99 fiscal year or a later fiscal year, as appropriate, and for each subsequent fiscal year, and shall report semiannually on all of the following measurements:

(1) For each of the following support collection categories, the number of cases with support collected shall include only the number of cases actually receiving a collection, not the number of payments received.

(A) (i) The number of cases with collections for current support.

(ii) The number of cases with arrears collections only.

(iii) The number of cases with both current support and arrears collections.

(B) For cases with current support only due:

(i) The number of cases in which the full amount of current support owed was collected.

(ii) The number of cases in which some amount of current support, but less than the full amount of support owed, was collected.

(iii) The number of cases in which no amount of support owed was collected.

(C) For cases in which arrears only were owed:

(i) The number of cases in which all arrears owed were collected.

(ii) The number of cases in which some amount of arrears, but less than the full amount of arrears owed, were collected.

(iii) The number of cases in which no amount of arrears owed were collected.

(D) For cases in which both current support and arrears are owed:

(i) The number of cases in which the full amount of current support and arrears owed were collected.

(ii) The number of cases in which some amount of current support and arrears, but less than the full amount of support owed, were collected.



(iii) The number of cases in which no amount of support owed was collected.

(E) The total number of cases in which an amount was due for current support only.

(F) The total number of cases in which an amount was due for both current support and arrears.

(G) The total number of cases in which an amount was due for arrears only.

(H) For cases with current support due, the number of cases without orders for medical support and the number of cases with an order for medical support.

(2) The number of alleged fathers or obligors who were served with a summons and complaint to establish paternity or a support order, and the number of alleged fathers or obligors for whom it is required that paternity or a support order be established. In order to be counted under this paragraph, the alleged father or obligor shall be successfully served with process. An alleged father shall be counted under this paragraph only once if he is served with process simultaneously for both a paternity and a support order proceeding for the same child or children. For purposes of this paragraph, a support order shall include a medical support order.

(3) The number of new asset seizures or successful initial collections on a wage assignment for purposes of child support collection. For purposes of this paragraph, a collection made on a wage assignment shall be counted only once for each wage assignment issued.

(4) The number of children requiring paternity establishment and the number of children for whom paternity has been established during the period. Paternity may only be established once for each child. Any child for whom paternity is not at issue shall not be counted in the number of children for whom paternity has been established. For this purpose, paternity is not at issue if the parents were married and neither parent challenges paternity or a voluntary paternity declaration has been executed by the parents prior to the local child support agency obtaining the case and neither parent challenges paternity.

(5) The number of cases requiring that a support order be established and the number of cases that had a support order established during the period. A support order shall be counted as established only when the appropriate court has issued an order for child support, including an order for temporary child support, or an order for medical support.

(6) The total cost of administering the local child support agency, including the federal, state, and county share of the costs and the federal and state incentives received by each county. The total cost of administering the program shall be broken down by the following:



(A) The direct costs of the program, broken down further by total employee salaries and benefits, a list of the number of employees broken down into at least the following categories: attorneys, administrators, caseworkers, investigators, and clerical support; contractor costs; space charges; and payments to other county agencies. Employee salaries and numbers need only be reported in the annual report.

(B) The indirect costs, showing all overhead charges.

(7) The total child support collections due, broken down by current support, interest on arrears, and principal, and the total child support collections that have been collected, broken down by current support, interest on arrears, and principal.

(8) The actual case status for all cases in the county child support enforcement program. Each case shall be reported in one case status only. If a case falls within more than one status category, it shall be counted in the first status category of the list set forth below in which it qualifies. The following shall be the case status choices:

(A) No support order, location of obligor parent required.

(B) No support order, alleged obligor parent located and paternity required.

(C) No support order, location and paternity not at issue but support order must be established.

(D) Support order established with current support obligation and obligor is in compliance with support obligation.

(E) Support order established with current support obligation, obligor is in arrears and location of obligor is necessary.

(F) Support order established with current support obligation, obligor is in arrears, and location of obligor's assets is necessary.

(G) Support order established with current support obligation, obligor is in arrears and no location of obligor or obligor's assets is necessary.

(H) Support order established with current support obligation, obligor is in arrears, the obligor is located, but the local child support agency has established satisfactorily that the obligor has no income or assets and no ability to earn.

(I) Support order established with current support obligation and arrears, obligor is paying the current support and is paying some or all of the interest on the arrears, but is paying no principal.

(J) Support order established for arrears only and obligor is current in repayment obligation.

(K) Support order established for arrears only, obligor is not current in arrears repayment schedule and location of obligor is required.



(L) Support order established for arrears only, obligor is not current in arrears repayment schedule and location of obligor's assets is required.

(M) Support order established for arrears only, obligor is not current in arrears repayment schedule, and no location of obligor or obligor's assets is required.

(N) Support order established for arrears only, obligor is not current in arrears repayment, and the obligor is located, but the local child support agency has established satisfactorily that the obligor has no income or assets and no ability to earn.

(O) Support order established for arrears only and obligor is repaying some or all of the interest, but no principal.

(P) Other, if necessary, to be defined in the regulations promulgated under subdivision (e).

(e) Upon implementation of the statewide automated system, or at the time that the department determines that compliance with this subdivision is possible, whichever is earlier, each county that is participating in the state incentive program described in Section 17704 shall collect and report, and the department shall compile for each participating county, information on the county child support program in each fiscal year, all of the following data, in a manner that facilitates comparison of counties and the entire state, except that the department may eliminate or modify the requirement to report any data mandated to be reported pursuant to this subdivision if the department determines that the local child support agencies are unable to accurately collect and report the information or that collecting and reporting of the data by the local child support agencies will be onerous:

(1) The number of alleged obligors or fathers who receive CalWORKs benefits, food stamp benefits, and Medi-Cal benefits.

(2) The number of obligors or alleged fathers who are in state prison or county jail.

(3) The number of obligors or alleged fathers who do not have a social security number.

(4) The number of obligors or alleged fathers whose address is unknown.

(5) The number of obligors or alleged fathers whose complete name, consisting of at least a first and last name, is not known by the local child support agency.

(6) The number of obligors or alleged fathers who filed a tax return with the Franchise Tax Board in the last year for which a data match is available.



(7) The number of obligors or alleged fathers who have no income reported to the Employment Development Department during the third quarter of the fiscal year.

(8) The number of obligors or alleged fathers who have income between one dollar (\$1) and five hundred dollars (\$500) reported to the Employment Development Department during the third quarter of the fiscal year.

(9) The number of obligors or alleged fathers who have income between five hundred one dollars (\$501) and one thousand five hundred dollars (\$1,500) reported to the Employment Development Department during the third quarter of the fiscal year.

(10) The number of obligors or alleged fathers who have income between one thousand five hundred one dollars (\$1,501) and two thousand five hundred dollars (\$2,500) reported to the Employment Development Department during the third quarter of the fiscal year.

(11) The number of obligors or alleged fathers who have income between two thousand five hundred one dollars (\$2,501) and three thousand five hundred dollars (\$3,500) reported to the Employment Development Department during the third quarter of the fiscal year.

(12) The number of obligors or alleged fathers who have income between three thousand five hundred one dollars (\$3,501) and four thousand five hundred dollars (\$4,500) reported to the Employment Development Department during the third quarter of the fiscal year.

(13) The number of obligors or alleged fathers who have income between four thousand five hundred one dollars (\$4,501) and five thousand five hundred dollars (\$5,500) reported to the Employment Development Department during the third quarter of the fiscal year.

(14) The number of obligors or alleged fathers who have income between five thousand five hundred one dollars (\$5,501) and six thousand five hundred dollars (\$6,500) reported to the Employment Development Department during the third quarter of the fiscal year.

(15) The number of obligors or alleged fathers who have income between six thousand five hundred one dollars (\$6,501) and seven thousand five hundred dollars (\$7,500) reported to the Employment Development Department during the third quarter of the fiscal year.

(16) The number of obligors or alleged fathers who have income between seven thousand five hundred one dollars (\$7,501) and nine thousand dollars (\$9,000) reported to the Employment Development Department during the third quarter of the fiscal year.

(17) The number of obligors or alleged fathers who have income exceeding nine thousand dollars (\$9,000) reported to the Employment Development Department during the third quarter of the fiscal year.



(18) The number of obligors or alleged fathers who have two or more employers reporting earned income to the Employment Development Department during the third quarter of the fiscal year.

(19) The number of obligors or alleged fathers who receive unemployment benefits during the third quarter of the fiscal year.

(20) The number of obligors or alleged fathers who receive state disability benefits during the third quarter of the fiscal year.

(21) The number of obligors or alleged fathers who receive workers' compensation benefits during the third quarter of the fiscal year.

(22) The number of obligors or alleged fathers who receive Social Security Disability Insurance benefits during the third quarter of the fiscal year.

(23) The number of obligors or alleged fathers who receive Supplemental Security Income/State Supplementary Program for the Aged, Blind and Disabled benefits during the third quarter of the fiscal year.

(f) The department, in consultation with the Legislative Analyst's office, the Judicial Council, the California Family Support Council, and child support advocates, shall develop regulations to ensure that all local child support agencies report the data required by this section uniformly and consistently throughout California.

(g) For each federal fiscal year, department shall provide the information for all participating counties to each member of a county board of supervisors, county executive officer, local child support agency, and the appropriate policy committees and fiscal committees of the Legislature on or before June 30, of each fiscal year. The department shall provide data semiannually, based on the federal fiscal year, on or before December 31, of each year. The department shall present the information in a manner that facilitates comparison of county performance.

(h) For purposes of this section, "case" means a noncustodial parent, whether mother, father, or putative father, who is, or eventually may be, obligated under law for support of a child or children. For purposes of this definition, a noncustodial parent shall be counted once for each family that has a dependent child he or she may be obligated to support.

(i) This section shall be operative only for as long as Section 17704 requires participating counties to report data to the department.

SEC. 5. Section 17602 of the Family Code is amended to read:

17602. (a) The department shall adopt the federal minimum standards as the baseline standard of performance for the local child support agencies and work in consultation with the local child support agencies to develop program performance targets on an annual federal fiscal year basis. The performance measures shall include, at a



minimum, the federal performance measures and the state performance measures, as described in subdivision (c) of Section 17600. The program performance targets shall represent ongoing improvement in the performance measures for each local child support agency, as well as the department's statewide performance level.

(b) In determining the performance measures in subdivision (a), the department shall consider the total amount of uncollected child support arrearages that are realistically collectible. The director shall analyze, in consultation with local child support agencies and child support advocates, the current amount of uncollected child support arrearages statewide and in each county to determine the amount of child support that may realistically be collected. The director shall consider, in conducting the analysis, factors that may influence collections, including demographic factors such as welfare caseload, levels of poverty and unemployment, rates of incarceration of obligors, and age of delinquencies. The director shall use this analysis to establish program priorities as provided in paragraph (7) of subdivision (b) of Section 17306.

(c) The department shall use the performance-based data, and the criteria for that data, as set forth in Section 17600 to determine a local child support agency's performance measures for the quarter.

(d) The director shall adopt a three phase process to be used statewide when a local child support agency is out of compliance with the performance standards adopted pursuant to subdivision (a), or the director determines that the local child support agency is failing in a substantial manner to comply with any provision of the state plan, the provisions of this code, the requirements of federal law, the regulations of the department, or the cooperative agreement. The director shall adopt policies as to the implementation of each phase, including requirements for measurement of progress and improvement which shall be met as part of the performance improvement plan specified in paragraphs (1) and (2), in order to avoid implementation of the next phase of compliance. The director shall not implement any of these phases until July 1, 2001, or until six months after a local child support agency has completed its transition from the office of the district attorney to the new county department of child support services, whichever is later. The phases shall include the following:

(1) Phase I: Development of a performance improvement plan that is prepared jointly by the local child support agency and the department, subject to the department's final approval. The plan shall provide performance expectations and goals for achieving compliance with the state plan and other state and federal laws and regulations that must be



reviewed and assessed within specific timeframes in order to avoid execution of Phase II.

(2) Phase II: Onsite investigation, evaluation and oversight of the local child support agency by the department. The director shall appoint program monitoring teams to make site visits, conduct educational and training sessions, and help the local child support agency identify and attack problem areas. The program monitoring teams shall evaluate all aspects of the functions and performance of the local child support agency, including compliance with state and federal laws and regulations. Based on these investigations and evaluations, the program monitoring team shall develop a final performance improvement plan and shall oversee implementation of all recommendations made in the plan. The local child support agency shall adhere to all recommendations made by the program monitoring team. The plan shall provide performance expectations and compliance goals that must be reviewed and assessed within specific timeframes in order to avoid execution of Phase III.

(3) Phase III: The director shall assume, either directly or through agreement with another entity, responsibility for the management of the child and spousal support enforcement program in the county until the local child support agency provides reasonable assurances to the director of its intention and ability to comply. During the period of state management responsibility, the director or his or her authorized representative shall have all of the powers and responsibilities of the local child support agency concerning the administration of the program. The local child support agency shall be responsible for providing any funds as may be necessary for the continued operation of the program. If the local child support agency fails or refuses to provide these funds, including a sufficient amount to reimburse any and all costs incurred by the department in managing the program, the Controller may deduct an amount certified by the director as necessary for the continued operation of the program by the department from any state or federal funds payable to the county for any purpose.

(e) The director shall report in writing to the Legislature semiannually, beginning July 1, 2001, on the status of the state child support enforcement program. The director shall submit data semiannually to the Legislature, the Governor, and the public, on the progress of all local child support agencies in each performance measure, including identification of the local child support agencies that are out of compliance, the performance measures that they have failed to satisfy, and the performance improvement plan that is being taken for each.

SEC. 6. Section 17701 is added to the Family Code, to read:



17701. (a) There is established within California's child support program a quality assurance and performance improvement program, pursuant to which local child support agencies, in partnership with the Department of Child Support Services, shall monitor and measure program performance and compliance, and ensure the implementation of actions necessary to meet state and federal requirements and to continuously improve the quality of child support program services.

(b) Under the direction and oversight of the department, each local child support agency shall implement a quality assurance and performance improvement program that shall include, at a minimum, all of the following:

(1) An annual planning process that incorporates statewide standards and requirements, and establishes local performance goals that the department and local agency agree are appropriate.

(2) The inclusion of local performance goals and other performance-related measures in the local child support agency's Plan of Cooperation agreement with the department.

(3) Implementation of actions necessary to promote the delivery of enhanced program services and improved performance.

(4) An ongoing self-assessment process that evaluates progress in achieving performance improvement and compliance with program requirements.

(5) Regular and ongoing oversight by the department, including onsite reviews and the provision of technical assistance.

(c) The department shall promulgate regulations to implement this section.

SEC. 7. Section 17702 of the Family Code is amended to read:

17702. (a) The department shall assess, at least once every three years, each county's compliance with federal and state child support laws and regulations in effect for the time period being reviewed, using a statistically valid sample of cases. Counties found to be out of compliance shall be assessed annually, until they are found to be in compliance. The information for the assessment shall be based on reviews conducted and reports produced by either state or county staff, as determined by the department.

In addition, in order to meet federal self-assessment requirements, the department shall conduct an annual assessment of the state's compliance, using a statistically valid statewide sample of cases.

(b) A county shall be eligible for the state incentives under Section 17704 only if the department determines that the county is in compliance with all federal and state laws and regulations or if the county has a corrective action plan in place that has been certified by the department pursuant to this subdivision. If a county is determined not to be in



compliance the county shall develop and submit a corrective action plan to the department. The department shall certify a corrective action plan if the department determines that the plan will put the county into compliance with federal and state laws and regulations. A county shall be eligible for state incentives under Section 17704 only for any quarter the county remains in compliance with a corrective action plan that has been certified by the department.

(c) Counties under a corrective action plan shall be assessed on a quarterly basis until the department determines that they are in compliance with federal and state child support program requirements.

SEC. 8. Section 17704 of the Family Code is amended to read:

17704. (a) For the 1998–99 fiscal year the department shall pay to each county a child support incentive payment. Every county shall receive the federal child support incentive. A county shall receive the state child support incentive if it elects to do both of the following:

(1) Comply with the reporting requirements of Section 17600 while federal financial participation is available for collecting and reporting data.

(2) Comply with federal and state child support laws and regulations, or has a corrective action plan certified by the department pursuant to Section 17702. The combined federal and state incentive payment shall be 13.6 percent of distributed collections. If the amount appropriated by the Legislature for the state incentives is less than the amount necessary to satisfy each county's actual incentives pursuant to this section, each county shall receive its proportional share of incentives.

(b) (1) Beginning July 1, 1999, the department shall pay to each county a child support incentive for child support collections. Every county shall receive the federal child support incentive. The combined federal and state incentive payments shall be 13.6 percent of distributed collections. In addition to the federal child support incentive, each county may also receive a state child support incentive. A county shall receive the state child support incentive if it elects to do both of the following:

(A) Comply with the reporting requirements of Section 17600 while federal financial participation is available for collecting and reporting data.

(B) Be in compliance with federal and state child support laws and regulations, or have a performance improvement plan certified by the department pursuant to Section 17702.

(2) (A) For purposes of paragraph (1), the federal incentive component shall be each county's share of the child support incentive payments that the state receives from the federal government, based on the county's collections.



(B) (i) Effective July 1, 1999, and annually thereafter, state funds appropriated for child support incentives shall first be used to fund the administrative costs incurred by local child support agencies in administering the child support program, excluding automation costs as set forth in Section 10085 of the Welfare and Institutions Code, after subtracting all federal financial participation for administrative costs and all federal child support incentives received by the state and passed on to the local child support agencies. The department shall allocate sufficient resources to each local child support agency to fully fund the remaining administrative costs of its budget as approved by the director pursuant to paragraph (9) of subdivision (b) of Section 17306, subject to the appropriation of funding in the annual Budget Act. No later than January 1, 2000, the department shall identify allowable administrative costs that may be claimed for reimbursement from the state, which shall be limited to reasonable amounts in relation to the scope of services and the total funds available. If the total amount of administrative costs claimed in any year exceeds the amount appropriated in the Budget Act, the amount provided to local child support agencies shall be reduced by the percentage necessary to ensure that projected General Fund expenditures do not exceed the amount authorized in the Budget Act.

(ii) Effective July 1, 2001, and annually thereafter, after allowable administrative costs are funded under clause (i), the department shall use any remaining unallocated incentive funds appropriated from the prior fiscal year which are hereby reappropriated to implement an incentive program that rewards up to 10 local child support agencies in each year, based on their performance or increase in performance on one or more of the federal performance standards set forth in Section 458 of the federal Social Security Act (42 U.S.C. Sec. 658), or state performance standards set forth in subdivision (a) of Section 17602, as determined by the department. The department shall determine the number of local agencies that receive state incentive funds under this program, subject to a maximum of 10 agencies and shall determine the amount received by each local agency based on the availability of funds and each local child support agency's proportional share based on the performance standard or standards used.

(iii) Any funds received pursuant to this subdivision shall be used only for child support enforcement activities.

(c) Each county shall continue to receive its federal child support incentive funding whether or not it elects to participate in the state child support incentive funding program.

(d) The department shall provide incentive funds pursuant to this section only during any fiscal year in which funding is provided for that purpose in the Budget Act.



SEC. 9. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

